

**Town of Milton
Board of Adjustment
Historic Preservation Board
Meeting Minutes
December 14, 2006**

Members Present:

Jack Vessels	Brenda Burns	Matt Dotterer	Larry Savage
Marion Jones	John Collier	Joan Martin-Brown	

Other Present:

Robin Davis	John Brady
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Chairman Collier called the meeting to order at 7:08 P.M.

Agenda Approval

Collier: Are there any additions or corrections to the agenda for the evening? There don't appear to be any, so may I have a motion to approve the agenda as written?

Jones: Motion to approve the agenda as written.

Savage: Second.

Collier: All in favor, "Aye". Opposed - none. Motion carried.

Approval of Minutes

Minutes of October 24, 2006

Collier: We have two sets of minutes in your packets for this evening; the first set is the corrected set for the meeting of October 24, 2006. I assume everyone's had time to review these. Are there any other additions or corrections to these minutes?

Vessels: Motion to approve corrected minutes.

Dotterer: Second.

Collier: All in favor, "Aye". Opposed – none. Motion carried.

Minutes of November 28, 2006

Collier: Are there any additions or corrections to these minutes?

Vessels: Motion to accept the minutes.

Dotterer: Second.

Collier: All in favor, "Aye". Opposed – none. Motion carried.

Point of Order:

Dickerson: With regard to the agenda items that you have, I'd like to state that the procedure that was followed with the recent vote and also those contained in the minutes violate Planning and Zoning Ordinance as well as state law. I'll present you with the statement.

Collier: Please do.

Dickerson: The first item is the minutes as they were presented and just approved. I'll speak to the October minutes first. The state law which this Board is assembled under on the Board of Adjustment is Title 22. And I'm sure this is just an oversight, Mr.

Chairman, when you were calling the roll and the vote for minutes. What is clearly says in Title 22, Section 323, (I can read this whole section, but I highlighted those that are relevant), "meetings of the Board shall be held at the call of the Chairperson, such Chairperson (Mr. Collier), that all meetings of the Board be open to the public."... "the Board shall keep minutes of the proceedings showing the vote of each member." The minutes that you presented and just approved were not. On the first October page, you'll see the first part in the matter of business there, all you have is an "aye" vote instead of listing the individual members there; that's a procedure issue. If you'll turn to the issue of Mr. Ted Kanakos' house; that was an all "aye" motion and there was no listing of the membership there on that particular one. Also, the last page of this document is the zoning ordinance where the Board of Adjustment speaks to, and you'll see the same thing in keeping of the minutes is 11.0.4 Rules and Procedures, and if you go down to Item No. 2 of the Minutes of the Meeting, "such Board shall keep minutes of each of its meeting which shall in its own next meeting certify as accurate in which described the factors concerned by the Board in reaching this decision, and which show the vote of each member on every application to the Board." So you have to clearly state what the members' vote was, and I bring that to your attention as a procedural issue, and you are in violation of that.

Collier: I think, if you go back to the record, we're mixed on this; sometimes we do a roll call, and sometimes we do not. We can roll call every time. I appreciate you're bringing that to our attention. Thank you very much.

Brady: In the last meeting when we talked about the procedures, we did go over the part about the findings on the record, and Mr. Collier wanted a better taping system. The other night it worked pretty well for the Planning and Zoning. As long as we all talk toward the microphone, and I apparently was the worst enemy, so you finally had to hand me a microphone.

Collier: That point being made, I suppose we need to go backward and correctly approve our minutes of the previous two meetings if we're going to have roll call on every one of them to be safe.

Brady: Okay, it says, "submitted to each meeting and certified to the factors considered by the Board in reaching its decision." When we look at a decision, we look at the applications in front. I don't know if necessarily you have to do it for the minutes, per se, but you're the Chair, you call the shots.

Collier: Well, I would think that if we get in the habit of doing it on every issue, then it no longer becomes an issue as to where or when we did that.

Brady: That's fine.

Collier: So, that being said, I'm not sure exactly how to proceed without *Robert's Rules of Order* in front of me except to go backwards.

Brady: If you have the person who made the motion to approve the minutes asked on the prevailing side to rescind the motion, then I think you'll be okay.

Collier: Since we're going backward to be procedurally correct, the minutes for the meeting of November 28, there was a motion made by Mr. Vessels. Would you be interested in withdrawing your motion?

Vessels: Withdraw motion.

Dotterer: Withdraw second.

Collier: Now, can I now have a motion to approve November 28th minutes as written?

Dickerson: Mr. Chairman, I have another question for Counsel. The law states that each item will be voted on. The minutes do not serve the purpose for each item.

Collier: When you say each item, I'm talking about presenting minutes for approval, and if you want to go item by item on the minutes....maybe I'm not following...Mr. Brady, would you be able to clarify?

Brady: I'm going to phrase this a little differently so that it'll be a little clearer. At the October and November meetings, it does not appear that a roll call was done to approve those applications. I think that is the question that has been raised. The issue now is, since the October minutes would have had to have an appeal filed within 30 days, and that 30 days is after the filing and decision of the Office of the Board, technically those things are still open, because the decision, had you not approved the October minutes...if you don't properly approve something, and you had to go back and approve it later, and incorporate the record, you must give notice to the public by the posting of a public agenda that those items would be covered. The concern I have is based on this issue.

Robin, with regard to the permits that were requested and the approvals in October, have you issued those approvals and permits through your office? I believe two were signs in October, and there was another separate sign...one was denied in October and then approved in November when it came back. Plus, there was an approval in November on work that was being done for window dormers permit and the new roof shingle permits; were those permits issued? Kanakos and Patsy Cicala.

Davis: As far as I can remember, neither one of them have been issued a building permit to do any of the work that has been approved.

Brady: Then I think we're going to notice and have a meeting just to approve that.

Collier: Well, I'm seeing two months worth, because we have some of the previous month of October.

Brady: I don't have the October minutes in front of me.

Collier: I have two of them that indicate that we roll call voted, although the reasons given for approval are not within the minutes, just the denial reasons.

Brady: And I remember there was a roll call on that vote.

Collier: There were two out of, perhaps, four or five actions that evening. So I think what we need to do is review all of these at this time, or we're beyond adding it to the agenda for the night, so I guess we'll have to put them on for another month.

Brady: Have any of the ones in October come in for permits, or have asked for letters regarding their denial or copies for the records so they could appeal them?

Collier: No, we didn't actually deny any in October...the only one we had was to defer one for a sign in front of the interior design shop.

Brady: He came back a month later and it was approved in October.

Collier: We asked for a different design on the sign because we didn't care for the one he presented that night.

Brady: Do you want to have the person who made the motion with approving the agenda to withdraw the approval of the agenda to put these items on there to reaffirm by roll call vote of those items that have been previous, understanding that for the one or two that were denials, those roll call votes were already in the record, so the information is already there; for the ones that were affirmed, to look at your minutes to put those reasons why you affirmed them in the record now by roll call.

Collier: That would be all well and good, except that we're missing one member of the Board who was present for those actions and that's a problem. Secondly, we need to proceed very carefully because we want to correct this, and do it properly so we won't have to deal with this again. In order to do that I think we need to consider every thing that requires re-noticing.

Burns: I believe you're missing a board member...

Collier: I understand that, but if she's not present for the meeting, I can't very well drag her out... if she has other commitments and did not choose this... Right now we're being pointed out for two at once, but I think we've probably been procedurally incorrect on various issue; it's probably a conception of time.

Brady: The concern that was raised was that you had two months on the agenda today. Is it a technical issue that could be raised by someone who was denied, saying that you didn't do it correctly when you denied it? Yes. Have they made it past their time to appeal to the Superior Court? Under the statute, they may have passed that time, so their only action now would be a writ of sorcerer to fix the record below...

Collier: I can only think of one issue that was never really a denial...

Brady: That I believe is the one that worries me from reading everything where I was not the solicitor at that point.

Collier: You're speaking of the one on Broad Street.

Brady: That's correct.

Collier: We may not have been 100% correct but the intent was certainly there. It was probably a matter of fine lines...

Brady: That was part of the letter I wrote. Robin, did you get that letter to circulate?

Davis: No, I've never received a letter from John Borros.

Brady: Nothing from my letter to him a month ago?

Davis: No.

Collier: Okay, as I said, we'll proceed very carefully with this.

Burns: I have a question. I think that one of the applicants has already started construction on Chestnut Street, so how does this affect them? The "Squirrel Bell", I believe was the name, and that was the October meeting. They're under construction. They were given approval and obviously a permit.

Brady: Did the permit get issued, Robin?

Robin: Yes, it did.

Collier: Yes, there was a condition on that, and I have to assume the condition was met?

Davis: They have been issued a permit for the sunroom/great room only, not a garage.

Brady: The approval would be noticed in the January meeting, to do a roll call to approve the October and November items that did not have a roll call, because all those approvals did. Since those people acted based on "good faith belief", it would not be grounds to revoke the permit, per se, at this point. It would just be to clarify everything. If they came in and said, "Here is our design, and we want the garage permit, Robin," and

they complied with the conditions that were put on at the vote, I would tell you to go ahead and issue that permit subject to the approval at the meeting, because you've already approved it. It's just that the record does not reflect Mr. Savage, Ms. Jones, Chairman Collier individually. I think that looking at it and catching it now is a good thing so we can make sure we do it right in the future.

Burns: I have another comment. I don't know why we can't just grab Joannie and take care of the problem tonight since it's just a matter of roll call.

Brady: You would have to amend the agenda. The issue could be raised that you never gave notice to the body, although you have boiler plate language on the bottom, and the other items that could come up at the time of the meeting. This clearly came up at the time of the meeting and was being dealt with....normally we have the boiler plate at the bottom of this agenda, and tonight we don't have it on this. Am I missing something, or does this one not...

Collier: No, it doesn't.

Brady: Then you have to notice it for January, I'm sorry.

Collier: Well, it would be my preference to do that anyhow, Mr. Brady, and I would ask that in order to keep us on the straight and narrow and perfectly correct, that you review these two months, and dictate to Robin what needs to be noticed again.

Brady: I will do that. It would say "Ratification of October and November Votes", and then it would say, "Review of..."

Burns: Another question: Since I'm missing that next meeting, when they do a roll call for approval, what should my position be on that?

Brady: You would say that in November, I was absent and therefore, I am staying absent for this vote.

Collier: We have decided that we have withdrawn and seconded the motion for November, and I now have to ask for withdrawal of the motion and second for the October business.

Vessels: Withdraw motion.

Dotterer: Withdraw second.

Collier: So we have no minutes approved at this time, motions have been withdrawn, discussion has been made. Mr. Brady is going to address what needs to be corrected. Is there anything else, Mr. Dickerson? Thank you, I appreciate you bringing this to our attention.

New Business

Item #1 Big Link LLC

Requesting approval for signs to be installed on the office retail stores located at 113 Union Street, clearly identified by Sussex Tax Map and Parcel No. 2-35-14.19-184.00.

Collier: Is there someone here on behalf of the application?

Reed: I'm Richard Reed. I wanted to come up with a name for the property other than referring to it as "The Old Milton Sausage and Scrapple Building", not that that's a bad thing, but it's not that any more. So what I've come up with is "Union Square", on the side elevation and that would go where the "For Lease" and the phone numbers are now, and the material of the sign is signboard on top of chrome and there's also some

decorative trim that goes around the perimeter which is a urethane product. That was my intention for that sign. And then above each of the store fronts where the garage doors were, there's an area above each one of those signs that's approximately 2' by 10', just a basic sign above each one of the doors, and a similar one on the front of the old deli area, and the other existing store front.

Collier: The existing store front, are you just going to replace that sign with something else, or is that the sign?

Reed: I'm going to replace it.

Collier: Okay, so it won't change in size?

Reed: No, if anything it'll be a bit smaller, probably.

Collier: As near as I can tell, you're asking to place these three.

Reed: I'm asking to place these three. But the other areas, when I get tenants, I would hope to be able to continue with those similar signs, or is that another process before the Board.

Collier: Well, more than likely you would have to appear before the Board again. We can't approve something unless you can put it out. Can you tell me, since I'm somewhat familiar with sign ordinance, and I know that you have about 110' of frontage on this building and there's something that alludes to the frontage and the amount of signage, permitted, what the frontage on each one of these units?

Reed: It's approximately 14' where the garage door areas are.

Collier: This "Union Square" sign is just identifying the entire complex. It's 113 and I assume the individual units are A,B,C,D?

Reed: Correct.

Burns: I have a question for Mr. Brady. Is it really necessary for him, since every sign above every store front is going to be exactly the same sign, the only thing that we don't know is who the tenants will be, we don't know what the signs will say, to come before this Board every time he wants to put up a fascia sign? Could we go ahead and approve the size, as long as it's exactly the same dimension.

Brady: How many office spaces are there?

Reed: There are six units total.

Brady: Six. So basically you're asking for seven signs. I'm reading this that says, "Install signs on retail office space. That would be six, one over each space, and then the one that says "Riverside Tenant" and an arrow to the back, is that seven possible signs?

Davis: I will explain. As you see in the front, there are four store fronts that were garage doors in the past. There are two stores that are in the back. If you look at the "113 Union Square", you see under it, it says "Riverside Tenants". The tenants' names will be put under that 113, showing they would have to go to the back or through the door. So actually there's only going to be five 2' by 10' signs: four over the garage doors, and one over where the "Sausage" sign was, and then one Union Square sign with the tenants' names under it.

Reed: That's correct. There is on the rear of the property, this elevation doesn't show it, it didn't lay out the way this is drawn, but there is an opportunity for a sign on that rear entrance. So Mr. Brady, there would be 7 signs.

Brady: As I looked at it, there'd be six like this, which are 2' by 10' and one sign like this and that one is 48" by 55". To respond to Ms. Burn's question, you could because there's no number on description of work. You can allow the applicant to put the number

seven in and put six 2' by 10' signs, and one 48" by 55" sign, and it would be in substantial compliance and approve it at that point. The signs would have to be all the same type and conditions....

Burns: All exactly the same size and the only things missing would be the lettering. We could go ahead and approve it at this time so that he doesn't have to come back before the Board for something that's going to be exactly the same.

Brady: You can allow the applicant to amend it at this point to do that and to be in compliance with your current ordinance.

Burns: Would you like to do that?

Reed: Yes, I would, if you would allow that. That would be great!

Brady: What the applicant has to do is ask to amend his application to replace six 2' by 10' signs and one 48" by 55" sign.

Reed: May I amend my application to have six of the 2' by 10' signs and one 48" by 55" sign, for a total of seven.

Collier: I don't have a problem with that, but I assume we have to roll call that.

Brady: To err on the side, I would suggest that any things be roll call if an issue came up while you were not here.

Collier: We have a question from the applicant to amend his application to reflect seven signs as described by the applicant. So we'll begin our roll call.

Mr. Vessels: I'm in favor of it.

Ms. Burns: I'm in favor of it.

Mr. Dotterer: I'm in favor.

Ms. Jones: Favor

Mr. Savage: Favor

Ms. Martin-Brown: Favor

Mr. Collier: In favor

Collier: It has been allowed that you will be able to amend your application, so we'll be hearing replacement of all these signs, so back to the signs. Essentially we're going to approve the dimensions. Are we approving at this time the font that's being used?

Burns: Yes, and is this the actual color of the font?

Reed: Yes, it's an evergreen.

Collier: Ms. Burns, I have to remind you the colors are not a consideration or an issue. If there are no other questions from anyone else pertaining to this, the dimensions do fit within what's allowed by ordinance...

Jones: May I ask what's allowed by ordinance?

Collier: In a sign of this type, he's allowed 1.5 square feet of signage for every one foot of building frontage. That would be why I asked the question as to the size of the individual units because there's about 21 square feet of sign over each unit.

Dotterer: 1.5 for every foot of building frontage, not property frontage?

Collier: Yes, 8.2.2 is the exact ordinance.

Jones: I have a question, and maybe it's a little far-fetched, but as you progress and you get other tenants, who rules over what kind of a sign and the verbiage on that sign when you get a new tenant. If we approve the sign size, and I have no objection to that, is the Board held responsible is someone puts up a raunchy sign?

Dotterer: Do you have the authority to even rule over that sort of thing?

Jones: Although it will not influence whether or not I say to Mr. Reed I approve or not, I'm asking if anyone can tell me...

Brady: I can answer that for you. The First Amendment to the Constitution protects speech. Commercial speech is protected, so that wonderful restaurant on Rte. 1 just north of Rte. 24 called, "Crabby Dicks" in that changeable sign is an example of proper commercial space. If they moved to town and put that sign up, it is their constitutional right.

Collier: Any other questions or comments? If not, we'll entertain a motion as to what we'll do with the signage.

Burns: I make a motion that we approve the six signs that are 2' by 10', one that is 48" by 55" as presented.

Dotterer: Second.

Brady: I'm going to remind you, under the ordinance, that you on a vote like this that you have to have factors considered by the Board in reaching the decision. Those factors are and include whether it fits in with the nature of the sign ordinance, it fits within the dimensions of allowable signs, and it fits within the town center those things that allow the individual businesses to be so designated without something being as gaudy or outlandish as would not fit in as what's proposed. They can be your findings effect for this, but that's just an example of the types of finding effects that you reference as part of your vote when you do the roll call.

Collier: Alright, we have a motion and a second. Are there any other questions? I'd like to propose one question. Do you want to include in that motion also that we're to hold them to a certain font for the signs.

Burns: Well, I would add as presented, with that particular font.

Collier: As long as it's identified as that particular one, if there are no other questions, I guess we can take a roll call.

Mr. Vessels: I'm in favor of it. It's keeping with the buildings, the ordinance, the design seems proper.

Ms Burns: Well, because it is within the ordinance 8.2 and also 8.1 which is permitted in the town center, I think it's attractive, fits in with the historic look and feel of the town, I approve.

Mr. Dotterer: I approve, for the same reasons.

Ms. Jones: I would approve, it's keeping with the allowable signs.

Mr. Savage: I approve because it within keeping of the ordinance and I think it's a nice design.

Ms. Martin-Brown: I approve based on compliance with the ordinance and compatibility with the character of the town center.

Mr. Collier: I, too, approve because it is in compliance with Section 8.2 which regards signs in the town center. And that motion is carried unanimously.

Reed: Thank you very much.

Item #2 Workshop to Review Proposed Historic Ordinance

Collier: Basically, the logic for me behind this was the Board should really have the Chair of that Ad Hoc Committee with us as well as three of the members of our Board who are also on this Board. I figured what better way to ask and to answer questions you may have. It's a new ordinance so Ms. Parker, do you have anything you care to open with, or shall we just kind of bounce this around, or what?

Brady: Would you like to sit there and have the microphone there so you can sit there. You don't have to stand.

Parker: I don't know that I really have any type of a statement to make. I know that what you've presented with tonight, the only difference between that and what you have previously been presented, as Mr. Brady referenced in No. 3, Letter H, specifically dealing with "demolition by neglect." That is the only difference between the two. I made the offer to come even though three of your members were also members of this committee, just in case there were any questions or suggestions or opinions or needed any clarification. I'm here at your leisure

Collier: I guess I have one question that has to do exactly with H. At what point do you determine that it's now "demolition by neglect?" Where does that line begin? A house could need a paint job, and that could be neglect, but is it willful neglect, or...

Parker: Well, the way that it's worded now is when it's deemed to be a safety hazard.

Collier: So that's the only line...

Parker: That's the way it's written now. As you are aware, this has not been approved by Council so it is certainly able to be changed if need be.

Collier: The only other comment I would have is I notice you have a penalty phase, and my question is: Would it be more prudent to establish a fee schedule for a penalty rather than make them part of the ordinance, my point being that if it's deemed that it needs to be changed, then you're looking at three readings, and public hearings and everything else, whereas a fee schedule can be changed by resolution of Council, am I correct?

Brady: That's correct, but you also focused on the differences. A penalty is not a fee. A penalty has to be part of an ordinance, and a fee schedule, such as charges for a building permit, can be changed by a resolution. A penalty has to be part of the ordinance for enforceability. When I came to meetings, I took the most recent court decisions involving the city of Dover and the historic buildings that were bulldozed down in that city by a developer who got a little upset one day and tried to track the language that the Delaware Supreme Court approved for the penalties. And if you notice, "demolition without a permit" now has the opportunity for this Board to get them with a hefty penalty. And in accordance with 323, you have to put your reasons on there for why you're doing that; but they upheld the \$25,000 individually. They also upheld the \$25,000 personally, and they upheld a fine against the law firm, because it was in that law firm's interest to have this thing done. So they said the Board could fine the law firm as being an unwilling co-conspirator. So, I tried to track that language; but generally speaking, penalties have to be in the ordinance. If you change the penalties in a fee schedule, which could be a problem because that could look as if you're trying to do something arbitrary or capricious.

Parker: Along those lines, to answer Mr. Collier's question, and looking at the last page where we did set up fees for review of an application, as it stands now, there is no fee charged for an applicant to come before your Board for an historic preservation review. We set up some fees for that for the future with various dollar amounts so that a

professional can be hired. In light of Mr. Collier's question, should those fees be put into the fee schedule that the town has or should they still be kept as part of the ordinance.

Brady: We do have some ordinances that have fees in them, so it could be either.

Generally speaking, and Mr. Collier, you're absolutely correct, to change the fee part of this at the end for review would require a more lengthy process, but if we put that in there to start with, and if you make a recommendation that it should be taken out, I'm sure Council will give great weight to that recommendation. You're coming to a point where you have nothing now, but the Ad Hoc Committee believed that, with the number of applications, at some point you may want to cover the cost of having a professional review paid for by the applicant. That starts by having a fee to cover that. I looked at some other towns' fees, and below \$1,000 was no fee because if you have some minor improvements, you don't want to have a fee equal to the cost of the improvements. But then when you have major improvements and these numbers are the ones we came up with and discussed that night.

Collier: I have one more question for you Mr. Brady. Can you give me your opinion on Item 5, Amendment 4.9.10, Enforcement by Enacting ... It basically states, "The Board of Adjustment shall make the final determination of whether a violation has occurred." Is that within the powers of the Board of Adjustment to make that determination? I'm not sure we have that power. Is that within reason?

Brady: I look under 327, A1, "Herein decide appeals where it's alleged there's an error in any order, requirement, decision or determination made by an administrative official in enforcement of this chapter of any ordinance adopted pursuant thereto." So, state law, I think, does give you that power to be the trial court, per se, when you go to enforcement officer issues and notice a violation and someone wants to challenge it.

Collier: That was my question. Do we actually have that right as Board of Adjustment to do that?

Brady: And in the Dover case, the Board of Adjustment was upheld in assessing those fines, which were assessed by the City Manager, because the city manager or whoever the Dover official was, had that power because there was no Code Enforcement Officer during that time period.

Collier: Does anyone else have any other comments, questions, please?

Martin-Brown: I have a ton of questions. They all relate to Number 3, Section 4.97. I don't see language in here that has the first point of review and access in this context of "demolition", going first before, even though they're under the Board of Adjustment to the Historic Preservation Committee. And my own procedural sense would be that that committee would be the point of access, and their findings and review would inform the Board of Adjustment as to the rationale for justifying demolition.

Parker: The way Milton is set up now; the Board of Adjustment and the Historic Preservation Committee are one and the same. It's not two separate committees. The historic review is the purview of the Board of Adjustment. And letter A says that the property owner can make the application for razing or demolition. The application will be forwarded to the Board of Adjustment.

Martin-Brown: What I'm responding to is they're one and the same. That's not in any way in my mind an issue of debate. But, in my mind, since it's the same body, that the historic review considerations ought to be discussed by this body, because they would then be acting to deny a demolition or agree to a demolition as a Board of Adjustment as

petitioned by the town enforcement officer. I mean, there's a jurisdictional sequence here that concerns me, not that they're separate entities, but how the emphasis on the concerns of the historic district are discussed first and take precedent.

Parker: In letter E, it specifies that if the Board finds that the structure has no historic or architectural significance, it specifically instructs the Board to look at those factors in making their determination of whether a demolition should be approved.

Martin-Brown: But, it does reference in A the historic district and that was my point of departure. In the first sentence of A, it says "the historic district", and that's why my concern is that we sit as the focus as the historic preservation concerns. Somehow there needs to be, in my mind, a sentence added that the context for really grilling down of historic preservation concerns as primacy. I'm flagging that, I may not have agreement from other members, but it is context that I'm concerned about. In addition, the process of penalty in H says that "if a structure is deemed a health or safety hazard, the safety hazard aspects are quite a way downstream from when there perhaps should be some red flags going up and some earlier letters from the town enforcer observing the neglect of a building before it becomes a safety or health hazard. And so that gives the owner maybe as much as six months, a year or a year and a half, because these things don't happen overnight nor is the money available overnight, notice that he or she is on a "watch list", that there's community concern.

Parker: Just an example, are you talking about extremely peeling paint or something like that? Mr. Brady, perhaps this is a question for you. Does the town have the authority to say, "You need to paint your house, it's peeling too much?" or if you're getting into something that's other than a health or safety issue, but more an aesthetic issue...

Martin-Brown: No, it's a deterioration issue, like a front porch falling off, or a chimney...

Parker: If the porch is falling off, you have a safety issue. If you have holes in a roof you have a safety issue; a chimney falling down is a safety issue.

Martin-Brown: And that becomes a platform for demolition, and is too extreme immediately, but needs to have the owner have the opportunity to know that their property's being observed in a deleterious state and that the next step need not be demolition, but in the way it's deteriorating, there appears to be a pattern of neglect that would lead to demolition. This helps the impulse to be to help the town work constructively with owners of historic buildings that are beginning to deteriorate, and, in fact, buy time for the owner and the town to perhaps go for grants or whatever. But this kind of a process would platform a constructive dynamic as opposed to, "You've reached this point." It's remedial rather than the most drastic step. And to go to the temper tantrum by tractor, as happened in Milford, I think \$10,000 is far too modest an amount for that kind of radical behavior. I would propose up-grading that 5 times. \$50,000, you begin to tweak the toes. That's in the very last section of number 3. Those complete my remarks, Mr. Chairman.

Parker: I think Mr. Brady probably needs to comment on a couple of these, especially the dollar amount, because I think you're more familiar with the law than I am as to how high a dollar amount the court will uphold. Obviously, we can't go to extremes...sure we'd love to fine him \$500,000, but...

Martin-Brown: But \$25,000 happened in Dover, so I thought that was interesting.

Brady: Let me start with peeling paint.

Collier: Where you're going with this, I think the place to address this might be the town code, there is a section that addresses buildings and it does pertain to certain things, like windows falling out, and other points like that where it's the beginning of neglect, and that may be the area that you use as your guidelines to start addressing "demolition by neglect" because there is a fine line. I understand Ms. Martin-Brown's point. You can wait till it gets to some point, whereas if you look at it a little sooner, you may be able to save a building which could otherwise be beyond saving. I don't have the town code with me and don't quote me as being this, but I believe it is Section 5 Article V that has to do with buildings.

Brady: I believe you're correct to the extent that I was going to answer, Mr. Chair. We have some other ordinances to cover how you have to maintain your buildings and your property even as far as if you don't cut your grass for a season, you can get an Ordinance Notice of Violation from our code enforcement officer. In the case of peeling paint, if the peeling paint is not lead-based, then that is not considered a safety hazard. If it is lead-based, then that is considered a safety hazard and has been upheld as one of those things where you can cite a violation. And you're absolutely correct in the way that H was proposed. For example, if someone goes onto a porch and falls through the porch, that's a safety hazard; but if, at the moment, there's a little bit of rust on the downspout of the pipe, and maybe a bracket for the shutter is broken, yes, those are signs that are showing that if they don't take care of it...But, that would not qualify per se under "demolition by neglect." It's tough to interpret. I take you back to 1998 when there was a proposal in the county to have minimum requirements of a house, and there was such a groundswell of emotion, it cost one county councilman his career, and I'd never seen a meeting so charged up. There must have been at least 500 people in that Del Tech Auditorium that night. It's a "slippery slope" type of thing. You have to be very careful. My review of the town ordinances are: If Robin starts to see something, he can issue a violation notice that the person, in lieu of paying a fine, repairs something. But if it starts to become a pattern, that's why the H was necessary, in talking to the Ad Hoc committee in order to give you some substance. You just had a hearing where there was a request for demolition and it was deferred, and then afterwards, we got the engineer's report that it was a safety hazard. I gave you the opinion that a special meeting should be called because you had already started to work on it, and I felt that, although the code allowed an issuing of that permit with findings to be sent to you, you'd already started that process. So we tried to balance everything with the current code and the recommendations. If you believe that the fine should be higher, the courts have upheld a \$25,000 fine against a tractor-happy person; but you're starting at a point where you had nothing, and sometimes you have to crawl before you walk, and that's why some of those numbers are as they are.

Parker: And just speaking to the tractor issue, I would hope that the town solicitor would not look at "demo by tractor" as "demo by neglect", and would actually look as that as more of "demo without an approved permit", and then go to the section dealing with that where you're looking at a fine of \$100,000.

Brady: And that's why I thought we'd put that there, because that was one where it wasn't one where it was "by neglect"; that was conscious design. The permit had been turned down, and it was done anyway.

Martin-Brown: Well, then I would like to address my own logic to increase that penalty from \$10,000 to something more. But this is very helpful clarification.

Collier: So, I 'm still not sure where you cross the line from "in need of maintenance" to "willful neglect". Where does it go from benign warning to facing action? Where does that line begin? The home I live in right now needs to be power-washed. It's in need of maintenance, but it's not "willful neglect." By the same token, in an historic structure where some are in need of a good painting, that's just maintenance. But there can be others where the soffit fascias are beginning to rot and fall away; how much do you let happen before you say "willful neglect". I think you have to look at it, and I think the approach that the code enforcement officer ought to follow could be along the line of the difference between cosmetic that does not rise to the level of safety, and structural, which does. That's what I believe is the difference. Yes, painting, power-washing, repairing a bracket holding a shutter are more cosmetic in nature. Having a porch where there's hole in it, having a window that's missing are a different issue. That's how I would look at it, but if you wish to have a clarification to Council, which should be clarified to show determination, I'd be glad to work on it.

Parker: I think, since there are three of our committee members here, and you can correct me if I misspeak, and if I remember correctly, our thinking was that when you have an issue "demo by neglect" come before you, you would also be given from the code enforcement officer the pile of papers where he has issued violation after violation and they have been ignored or disputed. You will have the full history of what has been occurring with this structure, which is another reason that we have included some of the wording, for example, in number 5, Sub. II, "that the code enforcement officer will keep the Board advised of all matters pertaining to enforcement of the ordinance relating to this district." So if he's issuing the violation, he's keeping you informed of that, i.e., "this month I issued violation to this property, etc."; and if you or he starts seeing a pattern with that, you have those documents to back up whatever decision you deem is appropriate. Mary and Larry, please correct me if I misstated anything. (They agreed.)

Collier: Those were the only issues I had, and based on what you're telling me, it's still going to come down to a decision of the Board as a group. He can bring it to our attention as to whether the potential for neglect is there, but it will still be an issue...

Parker: It's the Board's decision, not just one individual like the code enforcer.

Collier: That's where I wasn't clear, because it's a fine line and neglect can be perceived in many ways. Mr. Brady has helped to clear some of those. Now the other question before us is the question of fees. The purpose of these fees is to hire a professional to review and cover the additional cost of reviewing and processing the application. So, we will always in all instances have a need for a professional. I'm assuming when you say professional you mean structural engineer if there is a request for demolition. That's the only thing that comes to my mind.

Brady: The other professional, and I'm interrupting the Chair, and I will yield to her because she will tell you about this issue.

Parker: Regarding structural engineers, Mr. Brady brought to our attention that there are individuals out there with certain education and expertise in dealing with historic structures. A professional with that type of a background may be beneficial to you in some of your other applications for additions or alterations, or even other structures such as garages, sheds that are built on a property. I will say that we didn't do a cost analysis

when we came up with the dollar figures for these fees. Therefore, as time progresses, it may be determined that these fees are too high or too low compared with what the town ends up spending, and these may need to be adjusted.

Collier: And that leads to my next question, and I don't know the answer. We post the fees, we charge the fees, and in one particular matter where we charged a fee, but there's no need for a review. Does that money go into an account specifically to be used by the Board of Adjustment should there be a need for future review, or does that end up in the town's general fund? I'm not clear on that because you said there could be an instance where, if we have to hire someone and the fee doesn't cover it. Then I don't know that it's important that we can obligate the town for an expense without going before Council and ask that of them. On the other hand, if these monies are directed to a specific fund for the use of the Board of Adjustment for these particular matters, that may be a different thing altogether, but I'm not sure.

Parker: And, I think that was our intent, that it would go into a fund of its own to be used for those purposes that, although there may be some applicants where you don't need to hire a professional individual, but there may be other applications where you have a much higher need depending on the nature of the application, and that general fund would be there to pay for those services, so the services are being paid for by the applicant and not by the town of Milton.

Collier: I understand and have no problem with your intent. I just wonder if that intent works within the hierarchy of how Milton is structured financially because I really have no idea how fees are documented or where and how they are channeled.

Parker: Aren't we lucky that the Town Manager's here tonight? Maybe he can answer that.

Dickerson: All monies coming into the town will be set up for the Board would take Councilman's permission. I don't think you get that.

Collier: And, that's what I'm grappling with...in other words, as I see it, if we don't spend it, we don't get it, and it's not that I deny making money for the town. It's just that in the future, to get this, it would have to appear on a need-by-need basis.

Dickerson: Let me just say this. The Board has a goal and a mission to fulfill, in this case, say we're talking about demolition. There's a way to tax the property or to lien the property when the demolition is done. The way I've seen it work in other communities, sometime that property's going to turn over, someone's going to do something with it. At that time, you get reimbursed. The town is out, but when you raze the building, and the town has to foot that bill, they're usually out for a year to 18 months. And fortunately, we're financially well enough that we can handle those indiscriminately as they come up because they don't come up that often.

Parker: Yes, but these fees don't just apply to demolition; these fees would apply to any applications coming before the Board of Adjustment for historic review.

Dickerson: In fact, if it's made into an ordinance, and it's part of your process, and it's approved by Council, after the final conclusion...for example, the buildings downtown which are condemned now, they were inspected by a structural engineer. That's why we put those barriers up there to protect the town because of the danger of that wall collapsing on those two buildings, so the structural engineer said. That's why we have to do that. If it came to the point with any building, and I can think of a couple or three in

town that Robin and I've talked about, we can certainly go back and have a structural engineer look at them. It costs, but it isn't cost associated.

Brady: I think I'm going to have to interrupt here. Lewes hired an historic preservation review consultant, and was paying them something like \$75 per hour to review the nature of proposals to see if they fit in within the district. That was one of the things discussed, that the cost and having monies come in would allow having a contract out for that service with respect to applications. Those normally go into the general fund, and then any costs are paid out of the general fund, and the goal is to have a wash on positive and negative years. That's what was discussed about looking back at the cost after a year or so to see what the cost of the consultant was, how much was recovered from the applicant, and to see if it evened out. Because all the volunteers, and you're all volunteers, are doing an exceptional job in reviewing things, but sometimes it's helpful to have a consultant to say, "Based on my education, training, and observation of what you're trying to do here, this isn't going to work, and here are my reasons, and this is what it should be."

Martin-Brown: Regrettably, this conversation came up on demolition again, because on Section D, Demolition Application, the end of a 90-day period. That's fine. My concern is that once that application is made and approved, we should have language in here saying that the applicant has 45-60 days to accomplish his intention.

Parker: Well, I don't know if that is feasible and the property currently outside is a prime example of that, in that I'm aware that they need to require permits from DNREC and the Army Corps before they can even touch the building even though Milton has granted its approval. They have to get specific approvals from other entities which may not occur within "x" amount of days if we put it in our ordinance. It wouldn't be fair for the town to then penalize that property owner for the slow bureaucracy of another entity.

Martin-Brown: I absolutely agree, Ms. Parker, but, on that very point, it could be 45 days from the granting of the final required permit. If everyone's gone through the process, and the permits have all been granted, it doesn't sit around another six months or a year. And if you have in there that within 45 days of the final permit being granted, it is demolished and gone. And that language is also in here that requires written notification to the town manager so that things like streets being blocked off and all of that stuff gets processed before that final permit is issued. In other words, the town has issued the permit, DNREC may or may not have gotten there yet, but in the permit application, there should be some notification process managed by the town manager to anybody else having to do with public safety and liability in the town as part of the application. 45 days after DNREC says "go", it's gone.

Collier: That's probably a very valid point. Do you want to say it's gone, or do you want to sunset the permit.

Martin-Brown: Well, that's even the more sophisticated approach, Mr. Chairman, which I think has merit.

Collier: But, then again it puts the burden on the applicant to probably notify you, but they can actually sit on their approval for several weeks. There's some gray area. I get government entities all the time and it might have been signed off on July 1 and might arrive on my desk on September 15.

Martin-Brown: Well, we have to have a knock-down date. We have to have a closure, because one of the things that happened in Washington a lot, was this demolition would

take place and then the investor said, “Well, my stocks have dropped in value, and I don’t want to deal with it right now.” We have the thing half-falling down, and fences around it for years. Downtown is so small and this is such a huge inconvenience out here, and I have my own personal opinion about whether things will fall down or not, but that’s another whole ugly discussion. So we really need to get it done.

Collier: Yeah, I won’t argue that, but I’m not so sure how...

Martin-Brown: Well, I’m here between the town solicitor and Ms. Parker; I’m sure they can figure it out.

Parker: And perhaps we can put the wording in, stating that it would need to be done within 45 days of the date of the final permit, because I would assume that all the permits are dated as to date of issue. So, if a permit is issued on October 1, and that is the final one required, then you have until November 14 to get that building down.

Collier: The building across the street is an isolated case because it requires additional permits because of its proximity to the river. On the other hand, the house next door to you would not require it. I don’t know how you would incorporate all that stuff in here.

Parker: Well, the final permit would be Town of Milton Permit.

Collier: Then I guess that would probably be it...the final permit is the Town of Milton Permit.

Dickerson: I have one comment. We have some property liens ordinances in town over a ten year period. The ICC code has liens and a book of maintenance codes. I’d like to order a copy of that; we subscribe to it in Washington. It may be a good starting point if you’re talking about place and time. It talks about the state or condition, and then it gives very succinct listings of what those conditions are and what must be met. And that would be perhaps a good starting point when we talk about demolition, and where it has deteriorated, and then Robin as Code Enforcer would be issuing those citations like you have so aptly said.

Parker: So you’re talking about having that wording for that put into this section as well as the other section of the zoning ordinance, because there’s a whole other committee working on the rest of it.

Dickerson: If we adopt the liens codes, we adopt the maintenance codes from ICC and look at those historical maintenance codes, because I believe they have one for that, but it’s very detailed. If we adopt that in this process, which Council would adopt that, and then use that as the benchmark, if you will, for what a deteriorating building looks like, you’d be ahead of the game. Does that make sense?

Collier: It makes perfect sense. That’s the direction I was driving at, and just didn’t know how to get there.

Dickerson: The code is so well broken down and it works quite well. There’s actually a process, and it talks about the code enforcement officer’s duties and the inspections and what they’re looking for. It gives you that deteriorated list of a house that starts at a window falling out to much worse than that.

Parker: I’m just trying to determine whether that is most appropriate in coming up with a whole separate listing for this historic district as well as the listing that will go into the other portion of the zoning ordinance that the other Ad Hoc Committee is working on, or if it would be just best put in once, covering the entire town.

Dickerson: Exactly. That’s my thought. As you said, just adopt this code, that’s in this book.

Parker: Because we just dealing with the historic district.

Dickerson: That's the benchmark for this by extended items, and reverts to that book.

Parker: Would it say that this would refer to such-and-such a code? Has this been brought up to the other Ad Hoc Committee that is dealing with the rest of the zoning ordinance, because we certainly can't refer to something that doesn't exist?

Collier: That probably wouldn't apply anywhere else in the zoning code but for this instance.

Dickerson: It applies everywhere.

Collier: If I understand the building codes and standards, there would be standards for construction, etc. Is that addressed in the zoning?

Dickerson: ICC puts it like this: Property Maintenance, Property Building Maintenance, How to Upkeep a Building, and then it talks about...

Brady: I'm going to try to answer both of your questions. It would apply more to the Board of Adjustments and primarily sitting as the Historic Preservation Board, than it would apply to Planning and Zoning, per se, or Council.

Martin-Brown: So Ms. Parker's jurisdiction would be able to act on behalf of that.

Collier: That's where I'm going, on the side of the... You can reference it, but it doesn't have to be referenced as a whole for entire zoning ordinance. It can be adopted by the town and they can apply it wherever necessary.

Brady: It would also apply to situations outside of Historic Preservation, because it would cover the whole town and minimum standards for maintaining a building.

Parker: So we're going back to number 5, on buildings

Collier: I think I've had my question answered about the fees, and the next step beyond that is if the Council approves fees for this, then the next step would be to appear before the Council with a representative of the Board appear to make a request for future budget, that they budget a line for professional services for the Board of Adjustment and be specific as to what they are. That would be the next step.

(Unintelligible conversation)

Collier: If they accept this amendment as it is, then certainly that answers the question as to what source of revenue would help fund this. It may not fund it in its entirety. I just want to make sure that we adopt this and not leave something out, where we have something in the ordinance and no ability to use it.

Martin-Brown: Mr. Chairman, are there motions required, or is this just a public hearing?

Collier: This is just a workshop.

Brady: However, when it was sent to you from Council in November, and when we finally got it, unfortunately we didn't have it in time for the November meeting, was that Planning and Zoning suggested changes, and I typed that today, and they're being forwarded over. They tweaked the signs, so what would probably be best following what Planning and Zoning did the other night would be to have a resolution saying that we recommend Council consider this ordinance with these changes for the following reasons, and then do a roll call. Then you have to submit your record to enable it to be reviewed by Council by January 2, 2007.

Collier: So what you're saying is we ought to write this down so we can get this worded properly.

Martin-Brown: That would help Ms. Parker's committee to get it done.

Collier: I think Ms. Parker's committee is actually done and I just want her to be here along with the other members to explain how they arrived at this position. Let's get all these different suggestions made and we're all in agreement with this.

Parker: The main suggestion was Ms. Martin-Brown's suggestion to increase the penalty of "demo by neglect" from the \$10,000 to \$25,000 since that has been upheld.

Collier: Shall we do it that way or should we start at \$10,000, as much as \$10,000 and no greater than \$25,000, should be put a range in there?

Brady: You really only have to have the maximum amount...up to....part of what it says under H, it says if you have the reasons you picked.....

Collier: Okay, we're going to recommend that it be increased from \$10,000 up to \$25,000. So that's recommendation on your Item 3 H. Everyone seems to be happy with 4, and 4, 6, and 8. I didn't hear any comments on that. Now we go to 5. We didn't ask any of these questions, so I guess I will because we have the code enforcement officer and the town manager here. Is it going to be possible to expect this to be done because it's in the ordinance? It states here, if you have a copy of this, that the code enforcement officer shall, at least once a month, view the sites.

Brady: I think the discussion that arose during those meetings was how many of these applications do you usually peg in a given time period. It looked like it may the allocation of a half a day once a month to look at four or five sites. It looks like it could be workable.

Parker: And our intent behind that was to hopefully prevent...

Collier: I just want to make sure it's feasible to get it done. I don't know if Council's going to assume that it's up to us to put it in this thing, or if it's part of his duties, and will be done without having to codify it.

Parker: We're talking about sites for which permits have been issued, and only those sites.

Brady: These are historic preservation district.

Davis: Well, to be completely honest, with what I'm doing right now, I don't have time to do what I'm doing now.

Collier: What this leads to is, if that's case, does this give you the ability to say, "Okay, we have ordinances prior to this that need to be done, can we hire this man some help?"

Dickerson: We are looking at getting Robin some help.

Collier: It was pointed out to me that I skipped over something...part 3, D

Martin-Brown: 45 days from the issuing of a permit by the town of Milton as the final grantor of a permit, the building shall be demolished.

Parker: And perhaps instead of adding that to D, could actually just become I.

Collier: We could add it to here, or make it "I". We have the isolated case of the thing along the river where there're additional permits required besides the town of Milton's. You might want to cover that somehow, "45 days from the issue of the final permit by Milton or any other required agency," might be the language you might want to use, so that would cover DNREC and Corps of Engineers, not that we have that many along the river, but nonetheless, there are ones within the historic district.

Brady: Now, there is a constitutional issue...Procedural due process. If for circumstances being just by the Board, is that permit allowed to be renewed and how often can it be renewed? For example, I had a hearing in Dewey Beach on Saturday where their permit per conditional use expired one year, unless it was renewed, and they

were allowed two one-year renewals for good cause shown. "Good cause shown" means that the applicant would have the burden to show why this was done. For example, they said well, there was a court case out there, and the court case didn't get decided until July, you can't go July, August or September in Dewey Beach because of the schedules, and that only gave us 45 days to start to convert this to a condo, and we weren't able to get all the financing. The Commissioner said that was "good cause", and renewed the approval for one year and allowed another approval. Here you have come 45 days. It probably could be challenged if you only gave a 45-day period without an option to renew for "good cause" as being arbitrary and capricious, and lacked appropriate due process in case something came up.

Collier: So, maybe the language would be 45 days from issuance of the final required permits...

Martin-Brown: Permit, because Milton's the last permit.

Collier: Again, I refer to the issue across the street, where they have to go through the town of Milton, and DNREC, and the corps of engineers.

Martin-Brown: But, Mr. Chairman, what I'm referring to is reversing that.

Collier: I guess, in the natural hierarchy of things, you don't go pursuing DNREC or Army Corps unless you're sure the builder's going to give you one.

Martin-Brown: Yes, but that's a consultative process as opposed to a permitting process. If they go to the town and say, "We want to knock this down," and the Board of Adjustment agrees that they want to knock it down, and we approve it as knocking it down, we are not issuing a permit. It then requires the applicant to go to DNREC and these other jurisdictions and come back to the town, and say, "We have satisfied the requirements of the state, county, and whoever, and the Board of Adjustments approved our knocking it down; we are now prepared to have you issue us a permit. And then the 45 days would pass, and they could appeal for a second period of time, say up to 45 or 60 days, based on a judgment of the Board of Adjustments.

Collier: I follow where you're going with this. When it comes before the Board, we granted demolition... first they have to make it known that it required additional permits, so we grant the demolition based upon them securing the other permits. Once they do, they get the permit from the town, and then the 45 day limit.

Dotterer: The problem with that, though, is to get, for example, a county permit, you have to bring in a town permit first.

Martin-Brown: We could bring in a conditional permit, that is conditioned on DNREC awarding it, i.e., that has a jurisdictional status that the Board of Adjustment's letter has authorized this to be demolished, and it's a conditional dynamic, anyway. Whether the town permitted it or not, DNREC may not. What I'm saying is if they have a finding by the Board of Adjustments that authorized demolition, there could be a conditional permit that would not start the clock ticking. And then, they would go out and get the other permits, come back to the town with the final permit.

Dotterer: They could also hold up the process by not applying for a permit, too. Suppose they don't want to apply for the permit right away; they could hold onto that permit, for example, a construction permit or demolition permit that could last up to a year, and apply that permit later on.

Brady: If demolition does not occur within the 45 day period of application to and for good cause shown, the Board may grant an additional 45 day period to complete the demolition.

Collier: That works well in probably 90% of the issues, and the exception would be the one that we may never issue again (across the street). The more I think about it, that's probably, other than the old sausage plant and the building we're in, are the only ones that are on the river that are in the historic district. Is everyone agreeable with the language that Mr. Brady gave us? Okay, we've addressed, 3 D, 3 H, and we're okay on 5, and we're going to work around that.

Brady: Is that 3 D, or 3 I? Has that "morphed" (a technical lawyer term) into 3 I?

Dotterer: John, just after that "I", the next one, is kind of minor, on 4.9.9 (4) foundation material...appropriately landscaped so as to disguise block joints." Me personally, I don't think block joints should be exposed. A lot of communities around here actually require you to use porridge or brick, stone, don't have any block work shown so it doesn't look like a manufactured home.

Parker: It says "covered in stucco", and you're more the expert than I am but, covered in stucco is not parging or appropriately landscaped....so there should be a third word...

Dotterer: Stucco is okay, parge, it's just an old-fashioned 1970's term...that's not the problem, it's striking the "appropriately landscaped" that is obsolete. Once the landscaping dies, you're going to see that block joint, so what's the use of including...

Martin-Brown: Ms. Parker, you explained very helpfully and you might want to share it with my colleagues about my concern about the insurance policy rubbing up against the mortgage and creating a fire. And you have an arson. And Mr. Chairman, this is very important because people do torch things when they can't get permits to demolish them, and Ms. Parker, would you share with my colleagues what the resolution is in case we need language, and the solicitor could respond?

Parker: Ms. Martin-Brown and I had a brief discussion a couple of weeks ago. Her concern was, of course, demo by arson, unapproved, obviously. What I explained was that Milton Fire Department is not tasked with investigating that type of an incident. That is the purview of the state fire marshal's office and would be up to them to make a determination that arson had actually occurred. If such a determination is made, you then have a town solicitor who I would believe could extrapolate that that would be an unapproved demolition when you have "demo by arson" and could then...

Brady: If a false claim is filed with an insurance company, that is a federal offense within the purview of the U.S. Attorney. The U.S. Attorney just successfully prosecuted two brothers for burning down a restaurant without a liquor license in Newark, and having met the U.S. Attorney and knowing how he likes to prosecute, I am certain he would follow up on that. Even though we do have state arson laws, it would also be covered in our state Attorney General's office; it's just that the federal laws are stronger.

Martin-Brown: But this would be suspect, because they couldn't get a demolition permit, so they burned it down.

Brady: I believe the state fire marshal's office would follow up on that very carefully.

Collier: It could be incorporated into their case against....

Martin-Brown: ...and it would be a \$100,000 fine applicable.

Parker: Absolutely, whether it's arson, or tractor, or any unapproved demolition, the fines are being put into place.

Collier: Okay, let's get back on track...we've got a 3 H, a 3 I, we struck the line on 4.4, is there anything else that we need to address as far as changes that we are going to recommend as a Board to the Town Council? Okay, you said that we need to put this in the form of a resolution, Mr. Brady.

Brady: Everything you do is by motion and resolution.

Collier: There are three items that we have discussed. We need a motion to get started.

Brady: Would you like a motion to be something similar to the effect that the Historic Preservation Board or the Board of Adjustment having reviewed the proposed ordinance, had a workshop on Dec. 14, 2006, and recommends its adoption to Town Council with the following changes made to the ordinance:

1. Changing and adding language with regard that 45 days from the issuance of a final permit required by the town of Milton, demolition shall occur. If demolition does not occur within the 45 day period, upon application and for good cause shown, the Board may grant initial 45-day period to complete the demolition.
2. 3 H – To change from \$10,000 to \$25,000 to state as follows: Penalty and up to \$25,000
3. 4.9.9(4) – To strike the language that refers to “landscaping in front of block,” and I think I understand that section of line, and I think Robin can fix that if I misspoke.
4. It is understood that under “demolition by neglect: includes “demolition by arson.”

Vessel: So moved.

Martin-Brown: Second

Collier: We have a motion and a second to recommend to Town Council the following changes Sections 3 D, 3H, 4.9.9(4) etc. I'll start my roll call vote.

Mr. Vessels: Approve.

Brady: Do you believe that the ordinance reflects the change in character of the town of Milton, that the improvements in the ordinance and the hard work of the Ad Hoc committee is reflective of getting something that will better help the Board to work within the Historical Preservation and the updates, and permitting the funding of a position as a consultant that will help improve the historic areas in the town.

Ms. Burns: I agree with that myself.

Mr. Dodderer: I agree.

Ms. Jones: I believe that recommendations made with the Council for approval with the corrections or additions will help the Board of Adjustment and Historic Preservation Board to better enact progress on behalf of the town of Milton.

Mr. Savage: I agree.

Ms. Martin-Brown: Yes, because the strengthening of the proposed changes in the Historic Preservation Board would make the town more effectively able to enforce historic preservation.

Collier: I, as Chair, also vote “aye” because of the work well done, and it's closing some of the gaps in the ordinance.

Collier: Do I hear a motion to adjourn?

Vessels: So moved.

Dotterer: Second.

Mr. Vessels: Yes

Ms. Burns: Yes

Mr. Dodderer: Yes

Ms. Jones: Yes

Ms. Martin-Brown: Yes

Collier: Yes

Meeting was adjourned at 8:57 P.M.